

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
Norfolk Division

UNITED STATES OF AMERICA

v.

DAVID ALCORN; AGHEE WILLIAM  
SMITH, II; THOMAS L. BARNETT;  
and NORMA JEAN COFFIN,

Defendants.

CRIMINAL ACTION NO.  
2:19cr47

TRANSCRIPT OF PROCEEDINGS  
(Status Conference)

Norfolk, Virginia

November 9, 2021

BEFORE: THE HONORABLE RAYMOND A. JACKSON  
United States District Judge

APPEARANCES:

UNITED STATES ATTORNEY'S OFFICE

By: Andrew C. Bosse  
Melissa E. O'Boyle  
Elizabeth M. Yusi  
Assistant United States Attorneys  
Counsel for the United States

RICHARD S. YAROW LLC

By: Richard S. Yarow  
Counsel for Defendant David Alcorn

1 APPEARANCES: (Continued)

2 FEDERAL PUBLIC DEFENDER'S OFFICE

3 By: Andrew W. Grindrod

4 Lindsay J. McCaslin

5 Assistant Federal Public Defenders

6 Counsel for Defendant Aghee William Smith, II

7 ANCHOR LEGAL GROUP, PLLC

8 By: Anthony M. Gantous

9 Counsel for Defendant Thomas L. Barnett

10 GREGORY K. MATTHEWS PC

11 By: Gregory K. Matthews

12 Counsel for Defendant Norma Jean Coffin

1 (Proceedings commenced at 2:29 p.m.)

2 THE CLERK: The United States of America vs. David  
3 Alcorn; Aghee William Smith, II; Thomas L. Barnett; and Norma  
4 Jean Coffin in Criminal Action 2:19cr47.

5 Ms. Yusi, is the government ready to proceed?

6 MS. YUSI: We are. Good afternoon, Your Honor.

7 THE COURT: Good afternoon.

8 THE CLERK: Are defense counsel ready to proceed?

9 MR. GANTOUS: Anthony Gantous on behalf of Thomas  
10 Barnett. We're ready, Your Honor.

11 THE COURT: All right.

12 MR. MATTHEWS: Greg Matthews on behalf of Norma Jean  
13 Coffin. We're ready.

14 MR. YAROW: Rick Yarow on behalf of David Alcorn.  
15 We're ready.

16 MS. McCASLIN: Lindsay McCaslin and Andrew Grindrod  
17 on behalf of Aghee Smith. We're ready, Your Honor.

18 THE COURT: Okay. Everybody's ready. Good  
19 afternoon. Let's get going here.

20 The Court has read all of the objections that you  
21 filed to the potential jurors based upon the questionnaire  
22 that you received, so what the Court is going to do is the  
23 Court is going to start with the objections that the  
24 government raised, and we're going to go down those.

25 As we go through, that will probably take care of

1 some of the objections that other counsel raised that be  
2 stricken. Then we're going to move over to those objections  
3 Mr. Smith has raised and go through those, and I think the  
4 shorter list of objections are from Mr. Barnett and  
5 Ms. Coffin. So that's the way we're going to proceed here.

6 And I read the reasons that each party articulated  
7 for it. So we're going to start in that fashion.

8 I will say, with respect to some of the objections  
9 that you have and the strikes with respect to the government,  
10 I'm concerned that so many people indicate -- it may very  
11 well be the case -- they have planned travel during November  
12 and December.

13 So we will move on. I think we'll still -- if we,  
14 in fact, granted all of the strikes, we would still have  
15 enough people to do what we need to do when we come back in  
16 here to select a jury. At least that's the Court's  
17 calculation. We shall see.

18 You started off -- I think the first juror the  
19 United States suggested striking was Juror Number 11. Juror  
20 Number 11 indicated that Juror Number 11 has planned travel  
21 during December.

22 Now, I have all these questionnaires up here in this  
23 box. It weighs about 60 pounds. I don't intend to get into  
24 them unless I have to get into them because they are all over  
25 the place in there, I believe.

1 Does anyone have any objection to striking Juror  
2 Number 11?

3 Hearing none, then Juror Number 11 will be stricken.

4 MR. YAROW: Judge, just for clarification, I just  
5 realized what I printed out for myself cut off the numbers.  
6 If you could just give me the first name, I could line up the  
7 numbers. Would that be William?

8 THE COURT: Juror Number 11 is [REDACTED].

9 MR. YAROW: Okay. Thank you.

10 THE COURT: I'll call the name and the number.

11 First [REDACTED] and then there was a request to  
12 strike Juror Number 12. That request was made by the  
13 government, by Mr. Smith, and Mr. Barnett.

14 Any objection to striking Juror Number 12 that has  
15 health concerns and some inability to understand the  
16 questionnaire, and I think -- let's go back and look at one  
17 thing here. Juror Number 12, Mr. Smith had numerous  
18 objections here to Juror Number 12.

19 Any objection to striking Juror Number 12?

20 Hearing none, Juror Number 12 will be stricken.

21 The next one on the list was Juror Number 15. Juror  
22 Number 15, you offered that Juror Number 15 had an impending  
23 birth of a grandchild, is an elder caretaker, and concerned  
24 with judging others. Any objection?

25 Hearing none, Juror Number 15 will be stricken.

1           You know, I just thought of something. I said I was  
2 going to skip down that way, but it's obvious to me that as I  
3 go through these -- well, I'll go back.

4           Juror Number 22. Pending travel during December. I  
5 don't know, unless we go back and look at the questionnaire,  
6 exactly when that travel is to start, if it's before or after  
7 Christmas.

8           Do you recall, Ms. Yusi?

9           MS. YUSI: Your Honor, for the government's strikes,  
10 any planned travel that we put down for strikes was for  
11 travel prior -- it was before Christmas.

12          THE COURT: Okay.

13          MR. GRINDROD: It's December 2nd, Your Honor.

14          THE COURT: Okay. Juror Number 22 is gone.

15          Juror Number 34. Juror Number 34 is [REDACTED]  
16 [REDACTED], and I think the government wanted that strike,  
17 Alcorn, Smith, and Barnett. You all seem to be in  
18 concurrence on this juror. So hearing no objection, that one  
19 is gone.

20          Juror Number 40 has international travel. That's  
21 juror [REDACTED], and I think Mr. Barnett also asked  
22 that that juror be stricken.

23          Any objection to 40? Hearing none, it's gone.

24          Juror Number 43, [REDACTED]. The government  
25 wanted to strike that juror, and so did Mr. Barnett for --

1 it's a full-time college student, and we don't usually  
2 require college students to come in to do jury duty.

3 MS. McCASLIN: Your Honor, we do object.

4 THE COURT: To striking Juror Number 43?

5 MS. McCASLIN: Yes, Your Honor.

6 THE COURT: Do you concur that Juror Number 43 is a  
7 full-time college student?

8 MS. McCASLIN: As stated in the questionnaire, he  
9 says he has class every day, but I don't know if that's in  
10 the evenings, and that would rule out basically anybody from  
11 18 to 22.

12 THE COURT: Well, then, I understand, but the Court  
13 is going to overrule that objection. We're not going to  
14 require a college student to come in here for jury duty.  
15 That's been a standard practice of the Court.

16 Juror Number 45 has planned travel during the  
17 holiday. That's [REDACTED]. And also Mr. Barnett made a  
18 motion to strike that juror.

19 Any objections?

20 Juror Number 58. That's [REDACTED]. Again, the  
21 United States and Mr. Barnett moved to strike that juror.  
22 Apparently the United States states a financial hardship and  
23 claimed bias and inability to follow the Court's  
24 instructions.

25 Hearing no objection --

1 MS. McCASLIN: Your Honor, we do object. As for the  
2 strong feelings of potential bias, it doesn't appear that it  
3 would actually relate to this case, based on his handwritten  
4 notes under some of the questions.

5 THE COURT: What do the handwritten notes say?

6 MS. McCASLIN: In terms of the strong feelings about  
7 financial advisors, he's talking about organizations in  
8 partnership with government, which we do not have here. He  
9 also discusses drugs, which is not at issue here.

10 THE COURT: Okay. Now, there's also -- it's an  
11 objection I'll let the United States address, since they're  
12 objecting on the grounds of financial hardship. What was  
13 that all about, Ms. Yusi?

14 MS. YUSI: Your Honor, he's the primary breadwinner  
15 for his family. His wife stays at home. And if I could have  
16 one moment, Your Honor.

17 (Pause)

18 MS. YUSI: Your Honor, I know he claimed financial  
19 hardship here. We're looking for that. But in terms of the  
20 bias, he's very clear, Your Honor. In question 76 he says,  
21 "I will not violate any personally held beliefs in order to  
22 judge this case even if they go against as the Court applies  
23 the law."

24 THE COURT: All right. Thank you. The objection is  
25 overruled. The juror will be stricken. Number 58 will be



1 stricken.

2 The next one you raised is number 62, and apparently  
3 the United States objected to that one; Mr. Smith objected to  
4 it; and Mr. Barnett objected to it. The United States  
5 articulated multiple statements of inability to judge. That  
6 was number 62 for [REDACTED].

7 Is there any objection to striking number 62? The  
8 only person that did not object was Coffin and Alcorn.

9 Hearing nothing, that one is gone too.

10 Juror Number 65 is [REDACTED] who indicates that  
11 she has surgery for early December, major surgery early  
12 December. Mr. Barnett and the United States wanted to strike  
13 [REDACTED]. Any other objections to removing this juror?

14 Hearing none, we'll move on.

15 Juror Number 67 is [REDACTED]. And the government,  
16 Smith, and Barnett objected to her. The government objected  
17 for financial hardship on commission and on the salary this  
18 individual receives.

19 No objections. 67 is stricken.

20 71 is [REDACTED]. And again, it's the United  
21 States and Mr. Barnett that objected to this juror. Has  
22 planned travel during December.

23 Hearing no objections, 71 will be stricken.

24 We next move on to 73. 73 is [REDACTED]. Once  
25 again, it's the government and Mr. Barnett who object. The

1 next five have planned travel during December.

2 Any objection to 73 being stricken? 73.

3 74, same reason, planned travel during November.

4 And 74 is [REDACTED]. The United States and Mr. Barnett  
5 requested this juror be stricken; two out of five.

6 No objection.

7 Number 76 is [REDACTED]. And the government  
8 objects and wants to strike this juror. Mr. Alcorn,  
9 Mr. Smith, Mr. Barnett, you are united, for a change, on  
10 striking this juror. So I take it there's no objection to  
11 number 76.

12 77, planned travel in November. Mr. Smith and  
13 Mr. Barnett and the United States seeks to strike the juror.  
14 No objection.

15 84 is the next one you have. She has planned travel  
16 out of state for graduation. That's number 84, and that is  
17 [REDACTED], and everyone agreed except Ms. Coffin to  
18 strike this juror. The Court will strike number 84.

19 Number 96 is a physician with COVID patients. Only  
20 the United States moved to strike this juror. I will tell  
21 you, as a matter of practice, we try to avoid calling medical  
22 professionals because there's a shortage right now out there,  
23 and so we try to avoid that, and so the Court would be  
24 inclined to grant number 96.

25 And by the way, that reminds me, the Court received

1 four more requests to be excused that you may not have. Let  
2 me find them right quick.

3 The Court received a request from the president and  
4 medical director of Bayview Physicians pleading with the  
5 Court to please release [REDACTED] because she's in  
6 a clinic environment and they are shorthanded. She's a  
7 doctor. The Court is inclined and the Court will strike  
8 number 84 -- or 96, I mean.

9 Next one is 103. The only thing I can say is that  
10 the United States has here that that individual has some  
11 medical concerns, and the Court is not all that clear on the  
12 medical concerns. And that is [REDACTED].

13 Can you elaborate on your motion to strike  
14 number 103?

15 MS. YUSI: Your Honor, Ms. Parker stated that she  
16 has leg spasms, and the medicine that she uses causes  
17 drowsiness, and she can't sit very long because of the spasms  
18 as well as getting drowsy.

19 THE COURT: Well, we do want jurors to be physically  
20 able to sit in the trial, and one of the first questions the  
21 Court asks is whether they have any physical issue that would  
22 cause them to be unable to sit, so if we bring her in here,  
23 we'll end up having to remove her for cause anyway.

24 So unless there's an objection, we'll just take 103  
25 off the board. Hearing none, 103 is gone.

1           104 is [REDACTED]. Again, only the  
2 United States has requested to strike this juror for  
3 financial hardship.

4           What is the nature of the financial hardship?

5           MS. YUSI: Your Honor, he works for Capital Concrete  
6 in dispatch, and he said he does not get paid for days off,  
7 and he cannot afford to not be working.

8           THE COURT: Four weeks is a long time not to get  
9 paid. So I'll tell you what, the Court finds that is a  
10 reasonable reason to strike the juror.

11           Number 106 is [REDACTED]. Again, financial  
12 hardship. Can you elaborate? Only the United States asked  
13 to strike [REDACTED].

14           MS. YUSI: Your Honor, he did state that it was a  
15 financial hardship. He says he does not get paid time off,  
16 his spouse is currently unemployed, and he cannot afford the  
17 transportation to and from the court either.

18           THE COURT: Any objection to striking this  
19 particular potential juror?

20           Hearing none, 106 is gone.

21           110 is [REDACTED], and the United States moved to  
22 strike this juror for planned travel, work travel, and  
23 potential bias. And Mr. Smith, Mr. Barnett, and Ms. Coffin,  
24 all the defendants, I think, except Mr. Alcorn, also seek to  
25 strike number 110. Unless I hear an objection, 110 is

1 stricken.

2 112 is [REDACTED]. Only the United States  
3 seeks to strike this juror. Mr. Smith wants more answers.  
4 So what is the basis for his -- oh, I think the Court got  
5 some additional information on this juror. Hold up one  
6 second.

7 No. The Court doesn't have any additional  
8 information on that juror. So you can go on.

9 MS. YUSI: Your Honor, for [REDACTED], she said  
10 she wasn't sure how she would feel if the defendant did not  
11 testify. She said she could not find someone guilty unless  
12 she was 100 percent sure they were guilty. It was unclear if  
13 immunity was given to any, how she would feel about that.  
14 She said she was not sure if she could find anyone guilty,  
15 and she said it was very hard for her to make decisions in  
16 general.

17 THE COURT: Any objection to striking her?

18 MS. McCASLIN: I object, Your Honor.

19 THE COURT: For the record, I suppose.

20 MS. McCASLIN: We do, correct. Your Honor --

21 THE COURT: Well, do you know whether your client is  
22 going to testify or not? She has an issue with people that  
23 don't testify.

24 MS. McCASLIN: Correct.

25 THE COURT: That's a fundamental right of a

1 defendant not to testify.

2 MS. McCASLIN: I would think that follow-up  
3 questions would be helpful here, particularly because -- I  
4 understand that she has reservation about finding someone  
5 guilty or not guilty, but it is a serious decision, and so  
6 everybody should have reservations about finding anybody  
7 guilty or not guilty. So I think follow-up would be helpful,  
8 Your Honor.

9 THE COURT: That's fine, but the Court has some  
10 issues with the thinking that the defendant should testify.  
11 And the Court is not certain whether that's going to be  
12 changed if the Court tells her the defendant doesn't have to  
13 testify, if it's in the back of her mind that the defendant  
14 must testify. But we'll just leave it here for the time  
15 being. We'll leave her here for the time being.

16 Okay. Juror Number 113. 113 is [REDACTED] who  
17 claims that she has an inability to sit in judgment on  
18 others, whatever that means.

19 MS. McCASLIN: Your Honor, we do object. Looking at  
20 the questionnaire, she does say it would be difficult for her  
21 to sit in judgment. It doesn't say that she can't. And as I  
22 previously said, it should be difficult for any juror to sit  
23 in judgment because it is a solemn and serious event  
24 especially in a person's life, so we do think that follow-up  
25 questions are appropriate.

1 THE COURT: The Court will concur, and the Court  
2 will leave that one on the board.

3 Juror Number 115. The United States seeks to remove  
4 that juror for financial issues and anxiety, difficulty  
5 sitting in judgment. If you care to elaborate, Ms. Yusi, it  
6 would be helpful.

7 MS. YUSI: Your Honor, number 115, [REDACTED], stated  
8 that she's an hourly employee and would not get paid,  
9 obviously, if she wasn't at work. She also stated, I believe  
10 in question 61, she was unsure if she could find defendants  
11 guilty after hearing all the evidence. And number 73, she  
12 stated something about -- she is expressing anxiety about --  
13 she said she would have anxiety about potentially convicting  
14 any of the defendants.

15 THE COURT: There are multiple reasons articulated  
16 here. The Court will not put this juror at financial risk to  
17 come in here.

18 MS. McCASLIN: Your Honor, may I be heard?

19 THE COURT: Yes, ma'am.

20 MS. McCASLIN: Your Honor, we do understand that it  
21 is a financial hardship for a lot of people. It does appear  
22 that she also has a spouse who works, so that person is  
23 bringing in income. Furthermore, in terms of the question  
24 about whether or not she would have any reservations in  
25 voting guilty, she puts "unsure." She said that she's never

1 been in that position before. "So I am just unsure."  
2 Similarly to my other objection, I think follow-up questions  
3 are appropriate because it is a difficult decision.

4 THE COURT: Okay.

5 MS. YUSI: Your Honor, just to clarify on number 73.

6 THE COURT: Number 73?

7 MS. YUSI: Sorry, question 73, for this particular  
8 juror.

9 THE COURT: I didn't think this was 73.

10 MS. YUSI: No, Juror Number 115.

11 For question 73: "Is there any reason you have not  
12 already explained that you would not want to serve as a  
13 juror?" She said, "Yes. I have not been diagnosed with  
14 anxiety, but I do feel I would be very anxious about serving  
15 as a juror."

16 I think there's just a multitude of issues. And  
17 hourly employees, Your Honor, I think it's very difficult for  
18 them to sit.

19 THE COURT: I'll tell you what, we will see. We  
20 cannot be sure that her name will end up in the pile. If so,  
21 you can strike her. You can use a peremptory strike on her.  
22 And the other thing is when we bring her in and question her,  
23 the Court may excuse her, at any rate. So we'll just leave  
24 her for the time being.

25 Juror Number 118 has planned travel during December.



1 That's [REDACTED]. And I think what we've done is we've  
2 consistently stricken those who are in that situation, so  
3 we're going to strike her.

4 MS. McCASLIN: Your Honor, I do have a question  
5 about this one. This person said that they have travel from  
6 December 18th to the 23rd, so I would like some instruction  
7 from the Court about how long you think that the government's  
8 case is going to last and how long we think that the jury is  
9 going to last.

10 THE COURT: And how long the defense is going to  
11 last in the event the government does finish. I think it's  
12 very difficult for the Court to calculate whether we're going  
13 to be going on the 18th or whether we end up going -- let me  
14 take a look at this calendar -- or whether we end up going --  
15 the 18th is a weekend.

16 Whether we end up having to go on the 20th or the  
17 21st or the 22nd, the Court doesn't know. We can't calculate  
18 at this juncture. And so that's just running the risk there  
19 that we're going to be at a point where we can, in fact, end,  
20 because even if the government ends its case, the defendant  
21 is not required to call any witnesses, but the Court doesn't  
22 know what the defendants are planning to do either.

23 So that leaves the Court in, really, a situation  
24 where it can't predict whether we'll need to come in here at  
25 least on the 20th or the 21st. So the Court will strike the

1 juror.

2 What number was that?

3 MS. YUSI: 118, Your Honor.

4 THE COURT: Oh, 118, not 115. Okay.

5 132. Now, the Court has some confusion on 132  
6 because the government has down here that she says she has  
7 financial hardship, and she's the primary caregiver for her  
8 grandchild. And then we've got a letter from Saber  
9 Healthcare Group that says she is the lead registered nurse  
10 for the nightshift, from 7:00 p.m. to 7:00 a.m., unless she  
11 takes care of the grandchild during the day and does nursing  
12 at night.

13 And they're asking her to be excused from this  
14 particular trial because she would be in trial all day, and  
15 then she would report about 7:00 p.m. for nightshift that  
16 lasts 12 hours. They indicated she's been doing this for  
17 three years and she is now indispensable in terms of running  
18 things. So that's the letter that the Court received today.

19 Any objection to striking Juror Number 132?

20 Hearing none, 132 will be stricken. That was [REDACTED]

21 [REDACTED].

22 We now move to Juror 138 who has pre-booked work  
23 travel. Now, I don't know what that's all about. I think  
24 the United States wants to strike this juror, so does  
25 Mr. Smith and Mr. Barnett.

1 I'll start with the United States. How long is that  
2 pre-booked work travel? Where is she going? Portsmouth?

3 MS. YUSI: One moment, Your Honor.

4 (Pause)

5 MS. YUSI: Your Honor, the juror is not specific as  
6 to when but says she has several work-related travel  
7 commitments already booked in November and in December.

8 THE COURT: Oh, okay. Well, that only leaves one  
9 person to object, and that's -- two, Mr. Alcorn and  
10 Ms. Coffin. I haven't heard any objection from either one of  
11 you-all.

12 MR. MATTHEWS: I have no objection.

13 THE COURT: And on behalf of Mr. Barnett?

14 MR. GANTOUS: We've also raised the objection, Your  
15 Honor. I'm sorry, no objection.

16 THE COURT: 138 will be stricken.

17 Now we move to 143. High school teacher with  
18 prepaid travel. When is it?

19 MS. McCASLIN: Your Honor, we do object to this one.  
20 The dates he does provide are November 23rd to the 28th.  
21 Again, I think this is going to come down to the Court's  
22 schedule.

23 If you leave on the night of Tuesday the 23rd -- I  
24 assume, of course, that we would have court on the 24th. I  
25 just don't know if we would have other matters to take care

1 of that day where the jury doesn't need to be present. I  
2 know there's some assumption there, but we do object.

3 THE COURT: November 23rd through the 28th?

4 MS. McCASLIN: Yes.

5 MS. YUSI: Your Honor, November 23rd is a Tuesday,  
6 and so that would assume that we would be taking off  
7 Wednesday the 24th and only having two days for the week of  
8 Thanksgiving.

9 THE COURT: We'll have to make some assumptions here  
10 that she's leaving on the night of the 23rd, which we don't  
11 know that, and that we're not going to do a half day on the  
12 24th. It all depends on how desperate the Court gets about  
13 the timing. So the Court will strike the juror.

14 That was [REDACTED].

15 Let's move now to Juror Number 147, prepaid  
16 international travel. That's juror [REDACTED]. The only  
17 person that moved to strike her was the United States.

18 Are there other objections to this juror -- not  
19 objections, I mean are there any objections to striking the  
20 juror? Hearing none, we'll strike her.

21 148. Contractor performance out of state during  
22 trial. And 148 is [REDACTED]. The only objection is  
23 on -- the only motion to strike is from the United States.  
24 And do you wish to supplement that short phrase you have  
25 there, Ms. Yusi?

1 MS. YUSI: Your Honor, this woman said that she has  
2 a contract to perform. She's, I guess, an actress and will  
3 be traveling with the company from November 20th to  
4 December 20th. She's an ice skater, Your Honor, and it's  
5 with a traveling ice skating show. And she stated this is  
6 her last chance for the biggest break in her career.

7 THE COURT: Does anybody want to stop the ice  
8 skating?

9 Hearing none, we will let her ice skate.

10 156, planned travel during November. 156, once  
11 again, it's [REDACTED], [REDACTED]  
12 and his reason is he also has planned travel in November.

13 MS. YUSI: Yes, Your Honor. It starts  
14 November 22nd, that Tuesday.

15 THE COURT: Hearing no objection, we're going to  
16 grant that one too.

17 The final strike is number 171, that you've offered.  
18 171 is [REDACTED] who has planned travel during November.

19 Anything else to add other than that?

20 MS. YUSI: Your Honor, it says he's going to leave  
21 the 24th and come back that Sunday. So he might be okay,  
22 depending on what time he leaves on the day before  
23 Thanksgiving. We might have to just ask him more questions.

24 THE COURT: Okay. We will leave that. We will not  
25 strike that juror.

1 MS. YUSI: Yes, Your Honor.

2 THE COURT: Number 159. 159 was not on the  
3 United States' strike list. I'm not sure it's on anybody  
4 else's list either, but we're going to find out here. 159, I  
5 received a letter from [REDACTED] -- that's Juror  
6 Number 159 -- who has requested that she be excused.

7 At the time she completed her questionnaire on the  
8 28th, she was told the trial would last three to four weeks.  
9 At the time she completed her paperwork, she mistakenly  
10 thought that her daughter's college graduation was being held  
11 later in December.

12 She has now learned that her daughter will be  
13 graduating from George Mason University on December 16th at  
14 10:00, and she said she's worked hard to get her degree and  
15 she really would like to be able to attend her ceremony and  
16 celebrate her accomplishment; if possible, could her jury  
17 service be postponed?

18 MS. YUSI: Your Honor, we would move to strike, and  
19 I believe -- is it [REDACTED]?

20 THE COURT: 159 is -- let's go back. I have the  
21 name right here. [REDACTED].

22 MS. YUSI: Your Honor, December 16th is a Thursday.  
23 We would move to strike.

24 THE COURT: Okay. Hearing no objection to college  
25 graduations, we'll strike 159.

1           Those are all the strikes that the government  
2 addressed. Now we will turn to Defendant Smith's strikes,  
3 and I think in the process of addressing the government's  
4 strikes, we probably knocked off some of the strikes that  
5 Mr. Smith was concerned about.

6           I think we struck number 12, which is on Mr. Smith's  
7 list.

8           Number 16, we did not address, and Mr. Smith has  
9 raised several objections. He indicated he may know one  
10 witness, Mr. Brown. He indicates he will only hear about  
11 30 percent of what is presented. "I'll probably just rely on  
12 other jurors' views and vote with the majority."

13           Any objection to striking this juror?

14           MS. YUSI: Your Honor, I would think that a lot of  
15 these questions could be further questioned, or further  
16 questions could elaborate on these. I'm not sure if this is  
17 enough for a strike for cause.

18           THE COURT: All right.

19           MS. McCASLIN: Your Honor, if I may reply?

20           This juror has listed just about every problematic  
21 indication that there is. He says that he would have  
22 reservation about voting not guilty but would have no problem  
23 voting guilty, which means that presumption of innocence is  
24 going to be a problem for this juror.

25           He would base his verdict on personal views instead

1 of the law. He does think that the defendants should or do  
2 need to testify. He also says that he would have an issue  
3 with the government having the burden of proof and the  
4 defense not having to prove innocence.

5 THE COURT: You're just talking about Juror 16?

6 MS. McCASLIN: Yes. I can list off the numbers of  
7 the questions, Your Honor, if that's helpful.

8 THE COURT: The reason I ask you that is because I  
9 thought that you offered -- Mr. Smith offered a rather  
10 comprehensive objection to this juror, and several of the  
11 things you just said are not in these about eight bullet  
12 points.

13 MS. McCASLIN: They are, Your Honor. They might be  
14 a little bit varied, but for the third bullet point down, it  
15 does mention difficulty with the Fifth Amendment, also  
16 problems with the government having the burden of proof,  
17 which is the same --

18 THE COURT: All right. The Court will strike this  
19 juror.

20 MS. McCASLIN: Thank you.

21 THE COURT: 16 is gone.

22 Number 20. On number 20, no one objected except to  
23 this -- wanting to strike number 20 is Mr. Smith and  
24 Mr. Barnett. And Mr. Smith offered his objection based on  
25 this individual's occupation and his education. I don't see



1 anything much here except that he's too intelligent for the  
2 jury. I mean, I don't see a basis for striking this juror.

3 What you said is this. Here's a summary that you  
4 gave: Currently works in accounting and operations. Job  
5 duties include processing payroll, invoicing customers,  
6 preparing financial statements. Has an MBA as well as  
7 undergraduate degree in finance, a Bachelor of Arts in  
8 accounting. This level of financial knowledge, as  
9 specialized such as this juror's, judgment would not be based  
10 on common sense and facts. This juror would have undue  
11 influence on other jurors in deliberations.

12 She says absence from her job would cause a big  
13 strain on the business. That's not a reason to strike. She  
14 has a second-grader who does not have daycare after school;  
15 therefore, it would be difficult for four weeks.

16 I don't think that's a reason to strike a juror, so  
17 the Court is not inclined to strike number 20. If you feel  
18 strongly about it, you can use a peremptory strike on her if  
19 she shows up on the board. That's [REDACTED].

20 Juror Number 21. Just Mr. Smith seeks to strike  
21 Juror Number 21 on the ground that you are not sure whether  
22 the juror would have difficulty following the rules  
23 pertaining to presumption of innocence for the defendant.  
24 And she did not check whether she would have difficulty  
25 treating -- not treating the indictment as evidence of guilt.

1           That may be unclear. The Court will recommend we  
2 just hold on to Juror Number 21.

3           MS. McCASLIN: Your Honor, if I may?

4           THE COURT: Yes.

5           MS. McCASLIN: She also said that she would be  
6 unsure whether she could follow the rule that the defendant  
7 is presumed innocent and that the government has the burden  
8 of proof. She also said that she was unsure about and had  
9 reservations about voting not guilty even if the government  
10 had not met its burden of proving guilt beyond a reasonable  
11 doubt.

12           THE COURT: Okay. You have some additional info  
13 that the Court doesn't have, looking at simply your reasons  
14 for your objection. That's an additional reason.

15           MS. YUSI: Your Honor, I would just say that this  
16 particular juror put unsure about a lot of things, and I  
17 think just additional questions by the Court could help  
18 clarify some of these.

19           THE COURT: All right. We'll hold on to Juror  
20 Number 21, then.

21           Okay. Juror Number 23. Mr. Barnett and Mr. Smith  
22 wish to strike Juror Number 23 because she -- you state:  
23 Does not know whether the juror would put personal view over  
24 law. Declined to affirmatively check a box to answer number  
25 69. I don't know what 69 is right now. Do not know, she

1 says, whether -- you do not know whether she is motivated by  
2 something other than civic duty.

3 THE CLERK: I think you're reading the wrong one.  
4 Go one block down.

5 THE COURT: Oh, wait a minute. I should be on 23.  
6 Thank you for that correction.

7 This juror was -- there's objection again, still, to  
8 this juror from Mr. Smith and Mr. Barnett. The only thing  
9 she says is the fact that she works in a firm and her sole  
10 duty is to pay people. That is insufficient to strike her.  
11 But then the Court gives consideration to her statement that  
12 she would give more weight to law enforcement testimony only  
13 because they are to uphold the law and tell the truth.

14 MS. YUSI: Your Honor, I would just say about this  
15 particular one, as long as she's going to follow the Court's  
16 instructions, then I think that she at least should be held  
17 for more questions to see if she would follow the Court's  
18 instructions about that and any possible bias.

19 THE COURT: Well, what we can do is we can hold on  
20 to her.

21 MR. GANTOUS: This is Juror Number 23 we're talking  
22 about?

23 THE COURT: Juror Number 23.

24 MR. GANTOUS: Well, she also responds that she  
25 provides day-to-day subsistence care for her 85-year-old

1 father-in-law. That's the answer to question 6a.

2 MS. YUSI: It's unclear. It appears that she does  
3 work as well. Like I said, more questions, I think, would be  
4 appropriate.

5 MR. GANTOUS: There's also the fact, Your Honor, she  
6 states to question 52 that she would give more weight to  
7 testimony of law enforcement over other individuals.

8 THE COURT: Well, I recognize that one. The only  
9 thing added was being the caregiver that the Court hadn't  
10 given any consideration to. Now, is she the only caregiver?  
11 We don't know.

12 MR. GANTOUS: Her response states: "I have an  
13 85-year-old father-in-law that needs my day-to-day care for  
14 medicines, food, and doctor appointments."

15 THE COURT: All right.

16 MR. GANTOUS: And then the answer to number 9, "Are  
17 you the sole or primary caretaker?" She answers: "Yes.  
18 85-year-old father-in-law."

19 THE COURT: We'll strike Juror Number 23.

20 MR. GANTOUS: Thank you, Your Honor.

21 THE COURT: Juror Number 28. Mr. Barnett and  
22 Mr. Smith seek to strike Juror Number 28. Primarily the  
23 reason you want to strike this juror is she is unsure about  
24 the rules, whether she can follow the rules or not.

25 Now, you know, I'm beginning to think when they say

1 they're not sure about whether they can just follow the  
2 rules, that that alone would not be enough to strike them now  
3 because we may need to get them in front of the Court and let  
4 them understand what their duty and responsibility is before  
5 I strike them. If they still take this equivocal position,  
6 the Court will strike them for cause then.

7 MS. McCASLIN: Your Honor, I do understand that.  
8 However, this juror does state that they would be biased.  
9 This juror says, on the second bullet point down, unsure if  
10 they could be fair to both sides because they've known  
11 somebody who has dealt with fraud, and mentions that twice.

12 On the third bullet point down, again, this juror  
13 would have no reservations voting guilty but is unsure if  
14 they could vote not guilty even if the government did not  
15 prove guilt.

16 And the last bullet point asked if anything else  
17 would influence her ability to judge fairly and impartially,  
18 the juror basically said yes.

19 THE COURT: You know, I started with the first two  
20 bullet points. I think before I speak the next time, I'll  
21 read all the bullet points. That juror is stricken.  
22 Number 28 is gone. That's too much for us to try to  
23 rehabilitate in voir dire.

24 29. Now, this is a juror who says -- and let's see  
25 who objected to 29. Mr. Smith and Mr. Barnett. You're

1 looking over each other's shoulders the way you're  
2 coordinating.

3 At any rate, she says she would base her verdict on  
4 her personal views over the law. And she has strong,  
5 negative feelings about financial advisors. "It's all  
6 rigged."

7 Yes, sir?

8 MR. BOSSE: Judge, just in general, when people are  
9 putting down here they are unsure about things or they've got  
10 feelings about things, the Court hasn't instructed them about  
11 how this process works.

12 Our general objection to striking jurors just based  
13 on things that the Court could talk more to them about is  
14 that if we do that for all of them, we're going to have no  
15 jurors left.

16 And these are all things that in other cases the  
17 Court has inquired about jurors, and then some of them will  
18 be stricken for cause based on what they say; and others, it  
19 turns out, had a misapprehension or a misunderstanding, and  
20 they could very well be in the jury pool.

21 THE COURT: Let me put it this way. This Juror 29  
22 is different from Juror 28, which had other things other than  
23 being unsure, and so what the Court will do is the Court will  
24 leave 29 in and find out just how strongly does she feel  
25 about these things after the Court tells them what their duty

1 really is. 29 stays.

2 32. Has strong feelings against financial advisors,  
3 insurance salesmen, do not trust them. Prior dealing with  
4 attorneys make her skeptical.

5 I think number 32 is another one. I think that they  
6 need to be told the basics that we usually tell them during  
7 voir dire, and that should address whether they still come  
8 out the same way no matter what the Court says.

9 MS. McCASLIN: Your Honor, if I may?

10 THE COURT: You may.

11 MS. McCASLIN: This juror states that they're going  
12 to have a problem with most of the constitutional issues.  
13 I'm not sure if they would have trouble treating the  
14 indictment as evidence of guilt.

15 They circled that they would have difficulty abiding  
16 by the Fifth Amendment and not drawing adverse inference from  
17 a defendant remaining silent, and she follows it up with  
18 "Maybe what's the attorney hiding?" Also says that her prior  
19 dealings with attorneys make her skeptical in this case.

20 She says that she is unsure whether she can follow  
21 the presumption of innocence. And on the next page, she is  
22 unsure if she would give more or less weight to law  
23 enforcement. Unsure -- or she said if she heard about the  
24 case, would not be able to set that aside and be fair to both  
25 sides. Unsure whether they would be able to vote guilty or

1 not guilty and would base their verdict on personal views.

2 It is a lot of legal and constitutional issues.

3 THE COURT: In case we don't accept that, she tops  
4 it off with going out of town for Thanksgiving.

5 MR. GANTOUS: And, Your Honor, she is also taking  
6 care of her grandkids starting in December again. It appears  
7 to be a financial -- or a family hardship.

8 THE COURT: The Court will strike Juror Number 32.

9 Let me tell you something. Sometimes I get the  
10 impression that people are trying to avoid jury duty, because  
11 you're not sure you can abide by any principle of law. I  
12 don't like to waste time; otherwise, I would bring her in  
13 here to make sure that's her attitude.

14 Okay. Let's move on to number 34.

15 MR. GRINDROD: 34 is already stricken, Your Honor.

16 THE COURT: Okay. That saves time.

17 44. United States and -- no. Mr. Smith and  
18 Mr. Barnett wish to strike Juror Number 44.

19 Bias. Police should be respected. She answered yes  
20 to the question about weighing law enforcement testimony,  
21 explaining police are always right and should be respected.  
22 Then she says she doesn't trust lawyers, but the U.S.  
23 Attorney's Office have police who jurors trust.

24 MR. BOSSE: That's not -- that's the foundation by  
25 the defense. That's not what the juror said.



1 THE COURT: Wait a minute.

2 MR. BOSSE: They've made an argument within the --

3 MS. McCASLIN: That's correct, Your Honor. The part  
4 in quotes is "I don't trust lawyers." So part of my argument  
5 was if you combine those first two, the U.S. Attorney's  
6 Office, of course, have police and law enforcement who the  
7 juror trusts and the defense just have lawyers who she  
8 obviously doesn't, so it's a double problem.

9 THE COURT: It's your argument on the back of your  
10 objection. All right. Okay.

11 She checked "yes" indicating she would have trouble  
12 with the Fifth Amendment. Unsure of whether -- she would  
13 have difficulty with the rule that the defendant has no  
14 obligation to prove his innocence, explaining that they would  
15 need to know both sides of the story. Has no reservations --  
16 wait a minute. She's unsure about finding them not guilty.  
17 She may know Jeff Browne, which is one of your witnesses.

18 There's too much going on here with this juror,  
19 ladies and gentlemen. The Court is striking number 44.

20 Number 46 is an objection raised by Mr. Smith and  
21 Mr. Barnett. This prospective juror has experience with  
22 parents being victims of fraud. Unidentified family member  
23 working in corrections. Spouse works for CBP.

24 She says, about the defendant not testifying, "I do  
25 not understand why a defendant would be advised not to

1 testify if he is innocent."

2           Unsure about voting not guilty. "I would hope that  
3 the defense proved their innocence as well."

4           Motion to strike is granted on 46.

5           52. This strike is by Mr. Alcorn, Mr. Smith, and  
6 Mr. Barnett. This juror would have trouble following the  
7 Fifth Amendment. She says, "Yes. I want to say no, but I  
8 believe that if you are innocent, what do you have to lose?  
9 If my kids won't answer my questions, it's because they are  
10 hiding something." She would also give more weight to law  
11 enforcement in their testimony.

12           Any objection to striking this juror?

13           MR. BOSSE: Yes, Your Honor.

14           THE COURT: Yes, sir?

15           MR. BOSSE: Your Honor, this is another example  
16 of -- I mean, when you have lay people confronted with these  
17 legal concepts, these might be red flags or things for the  
18 Court to inquire into, but if we look at the strikes that are  
19 proposed by the defendants, we're seeing a lot of women being  
20 stricken from the jury, and these are things that can be  
21 asked of the juror.

22           I mean, the commonsense answer about if my kids  
23 won't answer my questions, it's because they're hiding  
24 something, that's a layperson understanding that can be  
25 corrected by the Court, or you might find out that it's a

1 deeply held belief that she can't put aside, in which case it  
2 would be appropriate to strike her.

3 But by doing it here at this stage on this paper,  
4 these are essentially red flags that would suggest further  
5 inquiry, not striking across the board any time we see  
6 confusion about this sort of thing.

7 And same, Your Honor, with strong opinions for or  
8 against financial advisors, lawyers, I mean -- all of us --

9 THE COURT: We're on 52 now.

10 MR. BOSSE: I'm jumping ahead but --

11 THE COURT: Don't do that.

12 MR. BOSSE: Yes, sir.

13 THE COURT: I have enough problems with 52.

14 MS. McCASLIN: Your Honor, for number 52, the juror  
15 admits to having a bias already. "I realize I don't have the  
16 facts yet, but I already find myself leaning towards guilt."  
17 And the juror acknowledges having already formed an opinion.  
18 So that in itself is a major problem for presumption of  
19 innocence.

20 THE COURT: Here's the deal. Among the  
21 instructions, it points to the fact that everyone has a bias  
22 when they come in here, but then they get cautioned to put  
23 aside their biases, to impartially decide the facts  
24 notwithstanding your bias. Everybody has a bias about  
25 something or another. The question is do you have the

1 discipline to put aside your bias?

2 I will put it this way. I understand what you said,  
3 Mr. Bosse. The Court has no problem in delaying striking the  
4 juror, because if the juror comes in here and equivocates  
5 during voir dire, then you can raise your motion to strike  
6 them again. So we'll just pass on 52.

7 Now, number 53. The witness has strong opinions for  
8 or against financial advisors; works in financial management,  
9 analyst in the Navy, providing financial assistance; studied  
10 business administration and accounting in college and took  
11 multiple classes.

12 53 has no basis for striking anyone for cause. If  
13 you want to knock out 53, you'll have to do it by peremptory,  
14 but the fact that the witness knows business and finances,  
15 and et cetera, et cetera, that's no basis for striking that  
16 juror. So that juror has to stay in. We can avoid a lot of  
17 discussion on 53.

18 62.

19 MR. GRINDROD: Already stricken, Your Honor.

20 THE COURT: Wonderful.

21 66. Just Mr. Smith is striking 66. This juror  
22 would give more weight to the law enforcement testimony. "I  
23 would think their testimony is simply an objective statement  
24 of facts."

25 But, you know, I will leave 66, too, because the

1 Court has to instruct them that they cannot do that. Good  
2 guys don't always wear white hats. That's an expression that  
3 means the police don't always tell the truth, and they need  
4 to understand that. So we're going to leave 66 in.

5 Let's go down to 67.

6 MR. GRINDROD: Already stricken, Your Honor.

7 THE COURT: 75 is a strike raised by Mr. Smith and  
8 Mr. Barnett.

9 He has a relationship with Mr. Gantous, who is a  
10 counselor here. I think number 75 has enough reasons for the  
11 Court to strike that, to be candid with you.

12 MR. BOSSE: Can I ask what the relationship is with  
13 Mr. Gantous? I didn't catch that.

14 MR. GANTOUS: He's a good friend of mine and a  
15 neighbor, which I pointed out in our motion as well.

16 MR. BOSSE: Yeah.

17 THE COURT: Number 75, as I said, it's appropriate  
18 to strike the potential juror, number 75.

19 76. Everyone has asked to strike this juror  
20 except --

21 MR. GRINDROD: It's already stricken, Your Honor.

22 THE COURT: 76 is gone.

23 77.

24 MR. GRINDROD: Already stricken, Your Honor.

25 THE COURT: 81. Mr. Barnett and Mr. Smith asked to

1 strike this juror. This juror is speculating about "unsure"  
2 and "may have" and this and that and the other, kind of  
3 straddling the fence. So this is a juror the Court  
4 definitely needs to bring in here, so the Court is going to  
5 leave 81 on the board. Everything is "may." It's  
6 speculation. It may not come to pass.

7 Number 84.

8 MR. GRINDROD: Already stricken, Your Honor.

9 THE COURT: Okay. Number 93. There's an objection  
10 raised by Mr. Smith and Mr. Barnett. Would have trouble not  
11 drawing conclusion from a defendant not testifying. Has a  
12 business trip in early December. May know some of the  
13 witnesses. Hardship, work travel, and loss of income.

14 MR. BOSSE: Your Honor, we tried to strike everyone  
15 where it was clear what the travel was and that it was out of  
16 town and prepaid and not optional. The other items on here,  
17 the fact that they studied toward a Series 7 exam and has a  
18 financial planning background -- those are not reasons to  
19 strike someone from the jury pool.

20 And the other things are all things that can be  
21 inquired about. So if it turns out that they have  
22 out-of-state travel that's planned or some of these other  
23 reasons are fixed, firm beliefs, we wouldn't object probably  
24 at the time, but this seems like somebody that should be  
25 inquired into.

1 THE COURT: Hearing nothing, 93 will remain.

2 100. This is a strike that was raised by Mr. Smith  
3 and Mr. Barnett. Has strong opinions against financial  
4 advisors. "I feel these type of people have self-interest in  
5 their profits and not their customers." And another answer  
6 about crime, "I have no respect for anybody that would take  
7 the life or possession from their fellow citizen." "Would  
8 have trouble not drawing conclusion from a defendant not  
9 testifying."

10 I think that we need to bring this juror in here.

11 MS. McCASLIN: Your Honor, if I may?

12 THE COURT: Yes.

13 MS. McCASLIN: As to that last bullet point of  
14 having trouble not drawing a conclusion from the defendant  
15 not testifying, this juror did follow up with written  
16 commentary and said, "I believe if a defendant cannot speak  
17 on a matter they are charged with, they must be hiding  
18 something or being untruthful." That is much stronger than  
19 just an unsure.

20 THE COURT: But does that juror understand that the  
21 defendant is not even required to call a witness or  
22 cross-examine a person and that's why they are not testifying  
23 and they are not required to do so?

24 MS. McCASLIN: Your Honor, I think that if the -- if  
25 the juror is already stating "a defendant must be hiding

1 something," that's not anything that is wishy-washy. That  
2 means that they are unable to follow the presumption of  
3 innocence, they are unable to follow the right to remain  
4 silent, and the government's burden of proof.

5 THE COURT: You know, this has come up multiple  
6 times in here. I said don't look ahead, but I'm seeing a  
7 couple more where questions are raised by lay people about  
8 why people are not saying anything without knowing about the  
9 Fifth Amendment.

10 We don't teach civics anymore in this country. So  
11 they don't know that a defendant is not required to testify.  
12 Pure and simple as that. And that's a right. They don't  
13 know that.

14 So I tell you what we're going to do. We're going  
15 to leave 100 there.

16 Without even entertaining any questions, we're going  
17 to leave number 102 there, and if they persist in these  
18 positions, we will strike them. The Court will have no  
19 problem; if they equivocate, they're gone. It's simple as  
20 that.

21 Let's look at number 105. Here it is again. The  
22 same basic rules of law that apply to a criminal case are  
23 raised again. The juror is not sure if juror -- let me tell  
24 you who it is. 105 is [REDACTED]. Not sure if she  
25 would treat the indictment as accusation and not evidence of



1 guilt.

2           Unsure if she could follow the rule that the  
3 government has the burden and that the defendant has the  
4 presumption of innocence.

5           It's all equivocation. All right. Tell you what,  
6 you have the questionnaire. It's a good chance a lot of  
7 these jurors won't even come up on the board and you won't  
8 even have to be bothered with peremptorily striking. 105  
9 stays in.

10           108.

11           MR. GRINDROD: Your Honor, may I be heard briefly on  
12 the -- just to respond to Mr. Bosse's point?

13           It's just not true that these jurors haven't been  
14 told what the law is. The question itself instructs them on  
15 the law.

16           For example, the question about the defendant not  
17 having to testify says: "A defendant in a criminal trial has  
18 no obligation to testify," and it instructs them, "Jurors  
19 cannot draw any conclusion from the fact that a defendant  
20 chooses not to testify. The fact that a defendant may choose  
21 not to testify cannot be a factor in reaching your verdict."

22           And then it asks: "Would you have problems  
23 following those rules?"

24           So they are instructed as to the law. And they,  
25 notwithstanding that instruction, state hesitation or an

1 unwillingness to follow the law that they were just given in  
2 this written filing that the Court sent.

3 MR. BOSSE: Your Honor, these are lay people who are  
4 being confronted with new concepts for the first time on a  
5 written document that is -- I mean, we saw one person that we  
6 struck that basically said they didn't understand any of it.  
7 Thankfully, that person, I believe has been struck, but the  
8 idea that we're going to strike them based on their written  
9 response and not even bring them in to court to ask them  
10 about it, it's too much.

11 This is exactly the ammunition and the tools that  
12 the lawyers need to, with the Court, conduct voir dire, but  
13 the idea that we're going to strike anybody who portrays any  
14 uncertainty or unclearness about how these laws apply in a  
15 federal courtroom, it's too much at this stage.

16 Because of the questionnaire, it's a three-stage  
17 process. It's this initial stage, then it's strikes for  
18 cause in court, and then it's the peremptory strikes. So  
19 we're at stage 1 of 3.

20 THE COURT: I think that we can make a distinction  
21 here. If they look at the information provided that  
22 Mr. Grindrod read and they make an unequivocal statement that  
23 "I will not" do something -- or "I'm not sure" or "unsure," I  
24 think that is a basis probably for questioning further, but  
25 if they make a definitive statement that "I will not" do

1 something, whatever, then I think that is a firm indication  
2 of what their position is. They're not equivocating.

3 And so when I look at one of these questions, that's  
4 the distinction I would make; jurors who are not sure,  
5 unsure, as opposed to "I will not," "the defendant ought to  
6 testify if he's not guilty," that's a distinction to the  
7 Court.

8 Anyway, now where were we? We were going to  
9 number 108. Oh, I did not deal with 105. I left 105 on the  
10 board.

11 Now, number 108 is an affirmative statement. "A  
12 person who is accused" -- now, who raised that? That was  
13 Mr. Smith and Mr. Barnett again.

14 It says, "A person who is accused of something and  
15 don't want to talk about it is probably hiding something that  
16 will prove them guilty."

17 That's the response to the question about the  
18 defendant not being required to testify. That is an  
19 affirmative statement. The Court will grant number 108 and  
20 strike the person, number 108.

21 109 was raised by Mr. Barnett and Mr. Smith again.  
22 The person says they have no hearing in their right ear,  
23 temporary loss in the left ear, cannot leave work during the  
24 fourth quarter.

25 The Court is concerned about the individual's

1 physical capacity. Does he have a hearing aid?

2 MR. BOSSE: Your Honor, that's what we don't know.  
3 We don't know what the situation is, if they can hear  
4 perfectly well with one ear and with the court's assistance  
5 with the headphones. This is exactly the kind of person that  
6 ought to be inquired into in person, as well as the extent of  
7 whatever this claimed hardship is.

8 We tried to strike people who made a very clear and  
9 definite statement of a financial hardship, and this person  
10 was not on our list for that.

11 THE COURT: All right. The Court usually asks the  
12 question of whether they can hear with the assistance of a  
13 hearing aid or visual aid. This doesn't tell us whether she  
14 has a hearing aid -- or he -- 109 is a male, [REDACTED]  
15 [REDACTED] -- whether he has a hearing aid or what is happening  
16 with the temporary loss in the left ear. So we will leave it  
17 for inquiry.

18 Number 110. Did we strike that one already?

19 MR. GRINDROD: Yes, already stricken, Your Honor.

20 THE COURT: 121. 121 was raised by Mr. Barnett and  
21 Mr. Smith again. This is another unsure juror, unsure about  
22 everything. So what we're going to do is we're going to  
23 question the juror. We're just not going to strike them.  
24 We'll question the juror.

25 122 was raised, again, by Mr. Smith and Mr. Barnett.

1 Okay. This one is also vague. "Would find it hard to avoid  
2 social media." Hard to avoid it? The Court tells you don't  
3 do it, and I'm sitting right up here and not on the paper.  
4 And what are the work requirements? That doesn't explain  
5 anything to the Court; hardship, work requirement.

6 Counsel, we need to bring 122 in here for further  
7 clarification.

8 MS. McCASLIN: One moment, Your Honor.

9 (Pause)

10 MS. McCASLIN: He does say that "I will be out of  
11 town November 16th to November 25th." Wait. That might be  
12 two different out-of-towns.

13 THE COURT: That's number 122?

14 MS. YUSI: Your Honor, my understanding is he's out  
15 of town and comes back the 16th, and so we assume that we're  
16 going to have a second day of the jury panel, so he could  
17 make it the 17th.

18 MS. McCASLIN: Just a moment, Your Honor.

19 (Pause)

20 MS. McCASLIN: Your Honor, the juror just says, "My  
21 work life would not allow something like this due to the  
22 requirements of the job."

23 THE COURT: We're going to find out what that is.  
24 "What are you working on?" Okay.

25 136 knows Attorney Yusi personally. What is the --

1 would you like to elaborate?

2 MR. GANTOUS: I think we skipped 126.

3 MS. YUSI: Sure, Your Honor. Which number is this,  
4 Your Honor?

5 THE COURT: 136.

6 MS. YUSI: She worked at my children's school a  
7 couple years ago. She no longer works there, Your Honor.  
8 That is how I know her. I don't see her personally or  
9 otherwise. And I believe she answered the questions that she  
10 would follow the law. We can inquire more.

11 THE COURT: When they know one of the counsel in the  
12 case, it's the Court's practice to follow that up with  
13 whether they would be influenced in their decision-making by  
14 virtue of the fact they know the counsel in the case, and  
15 just how close is the relationship with counsel.

16 You gave us a statement about what the relationship  
17 is, so I think we need to leave 136 in here, and we will ask  
18 her what we usually ask when we have this situation.

19 138 was raised as an objection.

20 THE CLERK: Your Honor, we skipped 126.

21 THE COURT: I skipped 126? Oh, I sure did.

22 Bias based on specialized knowledge. No way. We've  
23 said that before. We can't strike people for cause just  
24 because of their expertise and their background and ability,  
25 so 126 stays.

1 138.

2 MR. GRINDROD: Already stricken, Your Honor.

3 THE COURT: We can speed this up with a bunch of the  
4 others that are stricken already.

5 153. That's the same thing I just said a few  
6 minutes ago. There's no basis for striking number 153 based  
7 on specialized knowledge in certain areas; insurance  
8 licenses, annuities, et cetera.

9 154 has strong opinions on financial advisors.  
10 "They are deceptive." Can you put your bias aside and decide  
11 the case and see whether they have been deceptive in this  
12 case or not?

13 Yes, sir?

14 MR. GANTOUS: Your Honor, you notice that's all in  
15 caps, and that's a pretty definitive statement on his part.

16 MR. BOSSE: Your Honor, he wrote everything all in  
17 caps. That's not -- he didn't capitalize --

18 THE COURT: Let him finish first.

19 MR. BOSSE: Yes, sir.

20 THE COURT: Yes, sir?

21 MR. GANTOUS: That is accurate. That is accurate.  
22 We were just looking at question 32, Your Honor, but  
23 regardless if it's written all in caps or not, "They are  
24 deceptive" is not unequivocal or something he's not sure  
25 about. That is a definitive statement.

1 MS. McCASLIN: Furthermore, Your Honor, if I could  
2 jump in, he did say that he would base his opinion on  
3 personal views and not the law if they contradicted each  
4 other. So those two together are quite dangerous and  
5 unconstitutional.

6 THE COURT: Anything, Mr. Bosse?

7 MR. BOSSE: Yes, sir, Your Honor. Any number of  
8 jurors were confused by that last question. It seems to  
9 catch a significant portion of them. The idea that -- if you  
10 look at that, question 32, it says banks, financial advisors.  
11 It says -- it's a compound question that deals with insurance  
12 salesmen, trust companies, stockbrokers, investment brokers.

13 The idea that someone in the public would think that  
14 one or more of those entities can be deceptive or are  
15 deceptive -- I mean, that's not -- that's a commonly held  
16 belief, and the idea that we're going to strike them from it  
17 before inquiring whether they can put aside and decide  
18 whether these people were deceptive in this case just on the  
19 basis of a written questionnaire is premature.

20 THE COURT: Having heard both counsel, the Court is  
21 going to leave 154.

22 157. You know, you can go but so far dealing with  
23 these issues when someone says, "My instinctive reaction is  
24 that the person must be guilty of something for this to have  
25 gone as far as a court case" and "base the verdict on my



1 personal views and not the law."

2           You know, if this is a firmly held opinion, the  
3 Court is telling you that you can't base it on the fact that  
4 they are charged in an indictment, an indictment is just an  
5 accusation, the Court is not sure that that's even sufficient  
6 to raise this individual's view that they must have done  
7 something.

8           You all object, so it's stricken.

9           166. Raised by Mr. Alcorn, Mr. Smith,  
10 Mr. Barnett -- no, Mr. Smith and Mr. Barnett.

11           MR. BOSSE: Did we just strike 157? I apologize.

12           THE COURT: Yeah, I struck 157. I struck 157.

13           166. That's another affirmative statement. "If  
14 they say nothing, I'd have to side with what I heard."

15           Can that overcome the instruction that they're not  
16 required to say anything?

17           Trust police more.

18           The Court is striking number 166. That juror is  
19 stricken.

20           167. All three defendants -- Alcorn, Smith, and  
21 Barnett -- raised those three. Knows Special Agent Bowers,  
22 has previously been in grand jury with Assistant U.S.  
23 Attorney Yusi, may have been foreperson.

24           I have an objection to this particular individual.  
25 The Court is inclined to grant it.

1           169 has a strong opinion about financial advisors.

2           MR. BOSSE: Your Honor --

3           MR. GRINDROD: Sorry, Judge, did you strike or  
4 not --

5           THE COURT: I struck 167.

6           MR. GRINDROD: Thank you.

7           MR. BOSSE: And, Your Honor, I think we wanted to be  
8 heard on that one. There's nothing indicating here what --  
9 why that would bias them or -- we might find out something at  
10 the voir dire, but the fact that they know -- I mean, that  
11 seems like something for further inquiry, and maybe they  
12 would be struck in time.

13           MS. McCASLIN: Your Honor, the juror knows Special  
14 Agent Bowers who is going to be testifying as a government  
15 witness.

16           THE COURT: But you know something, I moved to  
17 strike him, but how does that juror know Special Agent  
18 Bowers?

19           MS. McCASLIN: They mention in --

20           THE COURT: Is there anything else in the  
21 questionnaire? Was he driving through the neighborhood? Did  
22 they see him at a hot dog joint? In other words, what do we  
23 know about how she knows Special Agent Bowers? Did she have  
24 any conversations with Elizabeth Yusi if she saw her in the  
25 grand jury? I remain to be persuaded and unpersuaded and

1       whatever. Anything else?

2               MR. BOSSE: Your Honor, the questionnaire indicates  
3 something about Mr. Bowers 15 years ago, "Knew him 15-plus  
4 years ago," "Not in the same office." I mean...

5               THE COURT: All right. We'll leave it. Changed my  
6 mind again. How many times have I changed my mind today?

7               MR. GRINDROD: Every time Mr. Bosse gives a speech.

8               THE COURT: The Court is not tracking that. You may  
9 be tracking it, but I'm not tracking it.

10              MR. BOSSE: For the record, I wish that were the  
11 case.

12              THE COURT: Don't credit him with that much  
13 latitude.

14              MR. GRINDROD: Fair enough, Judge.

15              THE COURT: All right. Has a strong opinion of  
16 financial advisors; will have trouble not drawing a  
17 conclusion from a defendant not testifying; based on views,  
18 not law; the police have more power; trust the police more.

19              That's a lot, ladies and gentlemen. That's a lot in  
20 that prospective juror. That's a lot. And this time I'm not  
21 changing my mind. 169 is stricken. You all can appeal that.

22              Look, the Court just noticed something. Time flies.  
23 It's five till 4:00. We've probably got about another 45  
24 minutes or an hour more of work to do, so we're going to take  
25 a 15-minute break and then come back and continue.

1                   (Recess from 3:54 p.m. to 4:10 p.m.)

2                   THE COURT: We did the last requested strikes on the  
3 sheet of Mr. Smith. Now we're going to turn to the sheet for  
4 Mr. Alcorn, and we might move a lot quicker because I think  
5 we've taken a lot of these strikes already.

6                   MR. YAROW: Judge, every single one of the folks  
7 that I've objected to have been struck except for number 52  
8 and 136. Both of those have already been ruled on. And I  
9 really don't have any additional objections other than what  
10 has already been stated.

11                  THE COURT: That's wonderful news. Thank you, sir.  
12 Can you improve on that, Mr. Matthews?

13                  MR. MATTHEWS: I do, Judge. If I have any left, I  
14 withdraw them all.

15                  THE COURT: Thank you, sir. We're making progress.  
16 We might be out in the next ten minutes.

17                  What the Court is going to do now is the Court is  
18 going to turn just quickly to some of these motions that have  
19 been raised here.

20                  THE CLERK: We have one more defendant.

21                  THE COURT: Oh, Mr. Barnett. Hold on a second here.  
22 What do you have here? You have quite a number  
23 here, Mr. Barnett.

24                  MR. GANTOUS: Well, in contributing to this  
25 lovefest, Your Honor, I'm going to withdraw most of my

1 motions here save for a few.

2 THE COURT: I'm talking about your proposed strikes.

3 MR. GANTOUS: That's right.

4 Based on the Court's rulings so far this afternoon,  
5 Your Honor, I can safely withdraw most of the remaining  
6 motions to strike these jurors for cause, Your Honor.

7 THE COURT: Okay. Thank you very much.

8 MR. GANTOUS: I do have a couple that I've selected,  
9 Judge.

10 THE COURT: Tell me what the couple are.

11 MR. GANTOUS: Okay. Juror Number 3, Your Honor, she  
12 had put down that she had left her job due to COVID, and the  
13 Court may want to inquire more as to the reasons surrounding  
14 COVID, but I don't think someone who quits their job as an RN  
15 for COVID reasons is going to want to sit in this courtroom  
16 for a month. Juror Number 3.

17 THE COURT: Then we'll leave number 3 on the sheet.  
18 Not stricken.

19 Next one.

20 MR. GANTOUS: All right. Juror Number 9, Your  
21 Honor. There seems to be a family hardship, Judge, where  
22 this juror claims to have to be the sole and primary  
23 caretaker of their spouse, make all her liquid food due to  
24 her having cancer.

25 THE COURT: So you would move to strike that juror.

1 Let's see one thing here. You are the only one to object.

2 Are there any other objections to this strike?

3 MR. BOSSE: We don't think that this juror should be  
4 stricken without further inquiry. It sounds like this person  
5 is working, and I don't know if I remember this one  
6 correctly, but it sounds like they had something indicating  
7 they thought they would have to stay overnight for this case.

8 This just seems like something we need to know more  
9 about the situation. It certainly sounds like a hard  
10 situation, but it's unclear, if the person is working, why  
11 they couldn't -- oh, retired. I'm sorry.

12 Yeah, so I think we thought we needed to know more  
13 about it. It seems like they thought they'd have to do  
14 overnight stays, and obviously they don't.

15 MR. GANTOUS: I just go back to her response here,  
16 Your Honor, that he is definitive that he takes care of his  
17 spouse and makes all her liquid food. I would think she  
18 would require more than evening care.

19 THE COURT: I would ask when does she prepare the  
20 liquid foods and what stage is he in in terms of cancer.  
21 There are some additional questions we can certainly ask.

22 MR. GANTOUS: Fair enough, Your Honor.

23 THE COURT: Not that Mr. Bosse recommended it.  
24 Okay.

25 MR. GANTOUS: Juror Number 35. The way I read her

1 response to number 7, she's going to be out of town in  
2 La Jolla, California, from the 13th through the 17th,  
3 returning at 10:00 p.m., and that would put that at two days  
4 of jury selection, Your Honor.

5 THE COURT: All right. The Court will strike 35.  
6 They said the 13th through the 17th.

7 MR. BOSSE: Yes, sir. It was unclear -- we thought  
8 the same thing, but it was unclear from here when this person  
9 is getting back. If the jury selection goes to the 17th and  
10 they're back on the 17th, if they say they're back on the  
11 night of the 16th --

12 THE COURT: She said through the 17th.

13 MR. GANTOUS: She says returning at 10:00 p.m., Your  
14 Honor.

15 THE COURT: On what date?

16 MR. GANTOUS: The 17th.

17 MR. BOSSE: Well, it looks like 16 or 17. Both  
18 numbers appear to be there. If she can't be back until  
19 10:00 p.m. on the 17th, we're fine with letting her go, but  
20 it's unclear what it said there to me.

21 THE COURT: Well, we're striking the juror.

22 Next.

23 MR. GANTOUS: Just Juror Number 55, Your Honor.  
24 This gentleman says that he is self-employed and running a  
25 small business, and he's the only person in the household

1 that works. I would say a family hardship exists in that  
2 situation for Juror Number 55.

3 THE COURT: He's the only person in the household  
4 that works, and he would be in here for maybe up to four  
5 weeks.

6 MR. GANTOUS: And he's self-employed, Your Honor,  
7 running his own business.

8 THE COURT: Anybody have an objection to that?

9 MR. BOSSE: Your Honor, this is one where we marked  
10 this as one to inquire about. This person supervises two to  
11 three other people, and so I don't know why -- I mean, we  
12 would need to find out why they wouldn't be able to be here  
13 while the other people are working. And it might be that  
14 they couldn't be, but they didn't say they're working alone  
15 in the business.

16 MR. GANTOUS: Judge, if someone is self-employed and  
17 running their own business, missing a month of work, I would  
18 consider a financial hardship for this family.

19 THE COURT: Depending upon the size of the business,  
20 who he employs, whether he has a foreperson or a manager,  
21 whatever.

22 MR. GANTOUS: Fair enough, Your Honor.

23 THE COURT: So that one will remain.

24 What else do you have?

25 MR. GANTOUS: That's all I have, Your Honor. Thank



1 you.

2 THE COURT: Thank you very much.

3 Now, we're going to turn to some of these -- yes,  
4 ma'am?

5 THE CLERK: Do you want me to read off the strikes  
6 that I have?

7 THE COURT: Maybe that's not a bad idea.

8 THE CLERK: Juror 11, 12, 15, 16, 22, 23, 28, 32,  
9 34, 35, 40, 43, 44, 45, 46, 58, 62, 65, 67, 71, 73, 74, 75,  
10 76, 77, 84, 96, 103, 104, 106, 108, 110, 118, 132, 138, 143,  
11 147, 148, 156, 157, 159, 166, and 169.

12 THE COURT: Did you count how many strikes there  
13 are?

14 THE CLERK: 42.

15 THE COURT: Is there a question?

16 MR. BOSSE: If I could just have one moment, Your  
17 Honor.

18 THE COURT: While the government is questioning,  
19 does it comport with what the defense has?

20 MR. GRINDROD: We'd have to cross-reference, Your  
21 Honor. We can also look while the government is looking.

22 THE CLERK: Judge, it's 43.

23 MR. BOSSE: That's all right by our accounting.

24 THE COURT: All right.

25 MR. GRINDROD: Same, Your Honor.

1 THE COURT: Okay. That being the case, we will  
2 finish with this for the time being. We have 43 that we  
3 struck, so that leaves what?

4 THE CLERK: 108. We started with 151.

5 THE COURT: All right. Then we will bring in -- in  
6 probably two days, we'll bring in 24 in the morning and 24 in  
7 the afternoon, and we'll keep on until we are able to get a  
8 panel.

9 The Court proposes to pick 18 jurors. And that gets  
10 to the issue that was raised regarding the number of strikes.  
11 I may have to adjust the number of strikes, but what the  
12 Court intends to do is start with ten strikes for the  
13 defendants and then give each defendant left at least two  
14 strikes. Okay?

15 So for four defendants, that would be 18 strikes.  
16 For three defendants, that would be 16 strikes. For two  
17 defendants, that would be 14 strikes, peremptory strikes.  
18 For the government, the government will get 10 strikes. All  
19 right?

20 Now, with respect to one of the motions raised here  
21 regarding conducting an inquiry about Mr. Bank's decision to  
22 invoke the Fifth Amendment, the Court has read the case law,  
23 and the Court will grant the motion in terms of an inquiry.

24 We will have to do it after the government rests.  
25 At that time, the Court will conduct an inquiry. The Court

1 will inquire of the defendant specifically what will be asked  
2 of Mr. Bank so the Court can rule on it question by question.  
3 Plus it helps the Court to know what the evidence has been on  
4 direct and where we're going and to get it all in context.  
5 So the motion for hearing an inquiry will be granted.

6 MS. YUSI: Your Honor, I don't believe  
7 Mr. Broccoletti still represents Daryl Bank. So just for  
8 planning purposes, if there is going to be, he might need to  
9 have counsel appointed for him.

10 THE COURT: Well, who is Mr. Bank's appellate  
11 counsel? Doesn't he have appellate counsel?

12 MR. YUSI: He does, Your Honor. Mr. Yamamoto was  
13 the CJA attorney appointed by the Fourth Circuit for his  
14 appeal.

15 THE COURT: That's who objected to the inquiry by --  
16 the Court understands it was the appellate attorney.

17 MS. YUSI: There has been no objection filed by  
18 anyone representing Mr. Bank.

19 THE COURT: Well, wait a minute, now. Mr. Grindrod,  
20 what is this representation you've made that his counsel  
21 indicated that Mr. Bank would be invoking the Fifth? Who was  
22 that?

23 MR. GRINDROD: That was Mr. Yamamoto, Your Honor.  
24 Even though he only represents him on appeal, for purposes of  
25 being ethical, we considered Mr. Bank to be represented in

1 the matter, so we inquired of Mr. Yamamoto as to whether we  
2 could meet with Mr. Bank and ask him questions, and  
3 Mr. Yamamoto responded back saying that we could not meet  
4 with Mr. Bank and that he expected Mr. Bank to invoke his  
5 Fifth Amendment privilege if we called him at trial. So  
6 that's why we raised the issue.

7 THE COURT: Well, the question for the Court is  
8 whether the Court needs to appoint another CJA counsel.

9 MS. YUSI: That's why I wanted to bring it up to the  
10 Court, Your Honor, yes. And perhaps Mr. Yamamoto might be  
11 able to represent him on this as a CJA if he's appointed in  
12 this court as well.

13 THE COURT: Okay. The Court will deal with that.  
14 There's a motion here respecting excluding certain  
15 evidence respecting the status of investments and securities  
16 law.

17 MR. BOSSE: Your Honor, we're still -- we're  
18 briefing the numerous motions --

19 THE COURT: Oh, yeah, that's right. Your responses  
20 are due on the 10th. I forgot that. No problem. There's  
21 too much going on here.

22 I think most of the motions the Court has really  
23 addressed except for those where the responses are due on the  
24 10th, and then the Court will be able to respond. A lot of  
25 these motions are motions adopting motions that have been

1 raised. And with respect to motions for indigent travel, the  
2 Court has addressed those.

3 If there's anything else burning, the Court will  
4 have to deal with it at a later time. We'll see what else is  
5 left.

6 Oh, the question you raised about taking photographs  
7 of the court, Mr. Grindrod, I don't know whether that's a  
8 viable issue in the first instance, but to the extent you  
9 need photographs of the court, the Court will take  
10 photographs of its own court, and those photographs will be  
11 placed with the courtroom deputy, and if they are needed for  
12 any kind of appeal, that's where they will be. But the Court  
13 will take photographs of the courtroom.

14 And as the Court sees this courtroom, every single  
15 defendant and counsel will be able to see the jurors. All  
16 the jurors will be wearing clear -- when they are questioned  
17 during voir dire, will be wearing clear face masks, which  
18 means you'll see every wrinkle in their face, so there will  
19 be no question about whether you can see a juror.

20 Every witness will be wearing a clear mask so that  
21 you can see them. We've checked the lines of sight in here  
22 from where each party and the counsel -- each counsel and  
23 defendant is sitting, and they have a clear view of the  
24 jurors.

25 In addition, to the extent the jurors have a problem

1 trying to see a witness, that television, that video display  
2 up there on the wall presents a very clear view of the  
3 witness. Even though they're here, they can see them, and  
4 they can also see a clear video view, so that's the Court's  
5 response to that motion. In other words, the Court will  
6 grant the motion to obtain photographs of the courtroom.

7 Now, I don't know whether there's anything else to  
8 that motion other than doing that.

9 MR. GRINDROD: No, Your Honor, I guess we would --  
10 whatever pictures the Court takes, we would ask that they be  
11 made part of the record somehow, whether that's filing them  
12 on ECF or just making them a court exhibit, but I understand  
13 the Court's ruling.

14 THE COURT: Well, the Court said it would make sure  
15 that they are available, so if you wish to use them for  
16 appeal, they will be there in the record. Any party wishing  
17 to take advantage of the photos, you will be able to see  
18 them. And we will get a panoramic view of the courtroom.

19 All right. Is there anything else we need to deal  
20 with right now? A lot of things we'll reserve, and we'll  
21 deal with it before trial and during trial and et cetera.

22 MS. McCASLIN: Your Honor, if I could ask for brief  
23 guidance. The United States Marshals are trying to  
24 coordinate the travel for defense witnesses. They are  
25 nervous about the dates coming up and are unsure how to

1 proceed with flight arrangements and hotels without knowing,  
2 of course, what day they're supposed to be here. They are  
3 seeking guidance, so I wanted to bring that up.

4 THE COURT: The Court told the U.S. Marshals when  
5 they were supposed to be here, told them no later than  
6 10:00 p.m. on the 11th. I think that's what the Court said  
7 in its order. And the Court has had communication with the  
8 Marshals so they know, unless they have changed something.

9 THE CLERK: Judge, they're talking about the  
10 witnesses.

11 THE COURT: Oh, the witnesses?

12 MS. McCASLIN: Yes.

13 THE COURT: When do you need the witnesses? The  
14 U.S. Marshals, if they're going to get some witnesses here,  
15 they need to know exactly when you will need the witness. It  
16 varies.

17 MS. McCASLIN: We need the witnesses when the  
18 government is done with their case in chief.

19 THE COURT: Okay. Then what needs to happen here is  
20 we need some better information on when the government will  
21 be finished, to have the U.S. Marshals bring the witness  
22 here. We don't want them to bring a witness here and they  
23 sit around here for two and a half weeks.

24 So this is going to be a very close call, but  
25 they've got to get the tickets early enough so we won't get

1 charged through the roof. And hopefully the airlines won't  
2 cancel the flights.

3 So I'll tell you what we're going to do. We're  
4 going to wait until the trial gets started. We will let the  
5 U.S. Marshals know they have to make a quick business of  
6 arranging these flights, but hopefully they can get notice at  
7 least a week out before you want the witness so they can  
8 arrange it.

9 MS. McCASLIN: And then just briefly for the  
10 defense, if any of the defendants choose to put on a case, is  
11 it going to be just going in order of the indictment?

12 THE COURT: The Court hasn't looked at that, but the  
13 Court will take a look, and the Court can probably tell you  
14 at the beginning of trial. The Court hasn't gone back to  
15 look at that. If you were going to shoot me right now, I can  
16 tell you who is listed first. I think it's Mr. Smith.

17 MS. McCASLIN: Mr. Alcorn, Mr. Smith, and then  
18 Mr. Barnett. It just could influence when we tell the  
19 Marshals someone would need to be here.

20 THE COURT: We can go in that direction; Mr. Alcorn,  
21 Mr. Smith, Mr. Barnett, Ms. Coffin if she's still here.  
22 Alcorn, Smith, Barnett, and Ms. Coffin if she's still in the  
23 case.

24 MS. McCASLIN: Thank you, Judge.

25 THE COURT: And, of course, if somebody else wants



1 to drop out of the case, the Court has no objection to that.

2 MR. GRINDROD: We'll be here, Judge.

3 THE COURT: I was afraid that would be your answer.  
4 Anything else?

5 MR. BOSSE: Not from the government. Thank you,  
6 Your Honor.

7 THE COURT: If not, we will be in recess until  
8 further notice.

9 (Proceedings adjourned at 4:31 p.m.)

10  
11 CERTIFICATION

12  
13 I certify that the foregoing is a correct transcript  
14 from the record of proceedings in the above-entitled matter.

15  
16  
17 \_\_\_\_\_/s/\_\_\_\_\_

18 Carol L. Naughton

19 October 27, 2022  
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